

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mia Minnelli

Attorney Docket No.: Mia Minnelli

US Patent: 6,263,884

Filed: July 24, 2001

**REQUEST FOR RECONSIDERATION FOR SHOWING OF
UNAVOIDABLE DELAY TO PAY MAINTENCE FEES AND
RENEWED PETITION UNDER 37 CFR 1.378(b)**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In response to the Decision on Petition under 37 CFR 1.378(b) filed February 2, 2012 to reinstate the above identified patent. The petition was dismissed. We respectfully request reconsideration of the petition decision and request the petition be granted such that US Patent 6263884 be reinstated.

The owner of the patent is The Tonytail Company, Inc (“Tonytail.”) Mia Minnelli is the Chief Executive Officer of Tonytail Company Inc. and she is the inventor of the patent at issue. Tonytail is a Delaware Corporation that employed 4 employees in 2009, however, the role of paying maintenance fees for the company’s intellectual property was solely Ms. Minnelli. This duty was not assigned to an employee during the time period in which the above patent application maintenance fee was due. The employees are not qualified to support Tonytail’s intellectual property as they are recent high school and college graduates who not were given the responsibility to handle the company’s finances and intellectual property.

As shown below, the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. We respectfully request the Office review all the facts and circumstances presented and grant this petition.

The Office has requested more specific information regarding Ms. Minnelli's surgeries and illnesses which prevented her from timely paying the 7.5 year maintenance fee. For specific details regarding her illnesses and surgeries, we have attached letters from her doctors discussing the extent and nature of her illnesses and surgeries. In November 2009, Ms. Minnelli lost a child due to Ms. Minnelli's age and health. In late September 2010, Ms. Minnelli became pregnant again. Her doctors informed her that this may be her last chance in her life to have another child and that stress can play a large role in stillbirths and other pregnancy complications. Her doctors instructed her to avoid stressful situations. In April 2010, Ms. Minnelli was diagnosed with having three (3) brain tumors. One tumor was removed in June 2010. Ongoing testing was done to monitor the tumor that was removed and watched for regrowth and/or other complications from that tumor. One of the remaining tumors (a schwannoma) is extremely rare and the doctors continued to monitor it over time to determine whether or not it is malignant and make future decisions as how to treat it. It is the size of a lemon and is wrapped around the Vagus nerve making it very hard for Ms. Minnelli to talk for more than ten minutes at a time. Continuous strain on her vocal chords may exacerbate the tumor and could potentially damage her vocal chords permanently. The schwannoma causes her to be very irritable and causes intense pain.

During June 2009 through December 2011, Ms. Minnelli's health problems limited her ability to perform her job duty of paying the maintenance fee for the patent at issue. During this time period, Ms. Minnelli had multiple surgeries, was in a high-risk bed-rest pregnancy, had a baby in 2010, and had multiple tumors during the time the payment lapsed. Ms. Minnelli was either at the doctor's office each week getting examined, MRI'd, biopsied or recovering from surgery. The nature and severity of her health during this time period demonstrates the delay in timely payment of the maintenance fee in 2009 was unavoidable such that the illnesses and surgeries prevented her from reviewing her database, recognizing the fee was due and submitting the fee to the USPTO.

Regarding US Patent 7,017,589, the maintenance fees were timely paid because Rubenstein Law Group paid the fees. The patent at issue was being prosecuted by a different Firm and attorney, Richard Goldstein. Furthermore, the '884 patent was involved in extensive litigation with Conair and Ms. Minnelli is unaware if Mr. Goldstein or counsel handling the litigation notified her of the fee deadline. Due to the nature and severity of her illness, she suspects that she was not notified, as she assumed the fees had been paid during one of the bills supplied from the Firms. During her illness and surgeries, her attorneys were aware that Ms. Minnelli's could not be stressed out due to the nature and severity of the illnesses so they had limited contact with her and provided her with statements of services performed.

Regarding Ms. Minnelli's trademark filings and fees related to trademarks were handled by Allmark Trademark during this time period. The Firm does not handle patent issues and the attorney was not in a position to notify Ms. Minnelli of the fees due related to the patent at issue. Tonytail's trademark portfolio was easier to manage during her illness because the Firm had the ability to charge Ms. Minnelli's account for the fees and she could conduct business over the phone with the Firm. The Firm helped to ensure that fees were paid and trademarks were filed during this time.

During June 2009 to December 2011, Ms. Minnelli cannot identify an exact date as to when she consulted the database or calendar on at least one occasion concerning any manner; however, during this time she was under the care of several doctors and consulted the calendar to doctor's appointments. The database was created on an Excel spreadsheet and she cannot recall a specific date she looked at the database.

Since reasonable care was taken to ensure that the maintenance fee would be paid timely and this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, we respectfully request the patent be reinstated.

VERIFICATION

I solemnly affirm under the penalties of perjury that the contents of this Request are true and correct to the best of my knowledge, information and belief.

Mia Minnelli

Signature

May 22, 2012

Date

Mia Minnelli

Respectfully Submitted,

By /Andrea H. Evans, Esq./

Andrea H. Evans

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**United States
Patent and
Trademark Office**

Maintenance Fee Statement

05/22/2012 04:22 PM EDT

Patent Number: 7017589

Customer Number: 42780

Rubinstein Law Group
c/o Dort Patent, P.C.
Box 320068
Alexandria VA 22320

According to the records of the U.S. Patent and Trademark Office (USPTO), the maintenance fee and any necessary surcharge have been timely paid for the patent listed below. The "PYMT DATE" column indicates the payment date (i.e., the date the payment was filed).

The payment shown below is subject to actual collection. If the payment is refused or charged back by a financial institution, the payment will be void and the maintenance fee and any necessary surcharge unpaid.

Direct any questions about this statement to: Mail Stop M Correspondence, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450.

PATENT NUMBER	FEE AMT	SUR- CHARGE	PYMT DATE	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPL. FILING DATE	PAYMENT YEAR	SMALL ENTITY?	ATTY DKT NUMBER
7,017,589	\$490.00	\$0.00	08/21/09	10/394,124	03/28/06	03/21/03	04	YES	TONY.P001.A

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Please note that in order to view your Maintenance Fee Statement as a PDF, you must have Adobe's Acrobat Reader installed. If you do not have it, download it for FREE!



100%

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To Whom it May Concern;

I am writing this letter on behalf of one of my patients, Mia Minnelli Kaminski. My department has been treating Mrs. Minnelli Kaminski since early 2009 through the present for infertility issues. In addition to our department treating Mrs. Minnelli Kaminski for infertility issues, she was treated by the UCSF Neurosurgery and ENT Departments for multiple tumors. The severity and nature of her health issues have impacted her ability to perform certain job duties.

We began treating Mrs. Minnelli Kaminski in March and April of 2009 for infertility. This treatment involved rigorous hormonal therapy. In late July, early August, she became pregnant but suffered a miscarriage in November of 2009. Following the miscarriage Mrs. Minnelli Kaminski had two surgeries.

Early in 2010 she again began fertility treatments with no success. At that time diagnostic tests identified a pituitary tumor that was impacting her ability to get pregnant. In June of 2010, that tumor was surgically removed and in the ongoing diagnostic work three additional tumors were identified. After consultations between departments it was decided that Mrs. Minnelli Kaminski could proceed with fertility treatments and she became pregnant in late September, early October of 2010. Both departments agreed that Mrs. Minnelli Kaminski should be on bed rest and limit her job duties. Also, with all of the appointments and numerous diagnostic procedures, which included MRI's, biopsies and a constant barrage of blood tests, Mrs. Minnelli Kaminski found it extremely difficult to maintain any sort of work schedule. She gave birth to a baby girl in June of 2011. Following the birth of her daughter Mrs. Minnelli Kaminski was inundated with maternal responsibilities that continued to impact her work schedule.

To this day Mrs. Minnelli Kaminski is still being treated and monitored by the Neurosurgery and ENT Departments at UCSF.

It is my sincere hope that this letter will shed some light on Mrs. Minnelli Kaminski's health issues and how they have impacted her ability to work at the highest levels. If you have any further questions, feel free to contact me or my department at 415-353-7475. Thank you.

Sincerely,



Mitchell Rosen, MD

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November 10, 2010

To Whom it May Concern,

Mia Kaminski has been known to this office since January 2007. She had a successful high-risk pregnancy delivering a healthy son at full term in 2008. Ms. Kaminsky is currently pregnant as a result of successful assisted reproductive treatment. Her estimated due date is June 5, 2011. It is well accepted that pregnancies as a result of assisted reproductive treatment are at higher risk of pregnancy complications. These increased risks include early pregnancy loss, preterm delivery and birth, and small and low birthweight babies.

There is also an association between stress in pregnancy and poor pregnancy outcome. There is an estimated 1.5-two-fold increase of preterm birth with maternal psychosocial stress. Because of Ms. Kaminsky's high-risk pregnancy status, we formally advise that she avoid stress as much as possible, including all depositions and other legal proceedings during her pregnancy.

Sincerely,



Sari Kasper, DO



MITCHEL S. BERGER, MD
Chairman

Department of Neurological Surgery

Adult Brain Tumors
Manish K. Aghi, MD, PhD
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Sandeep Kunwar, MD
Michael W. McDermott, MD
Andrew T. Parsa MD, PhD

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Shirley I. Stiver, MD, PhD

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Michael T. Lawton, MD

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Management
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Pituitary Endocrinology
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Epilepsy Research

Scott C. Baraban, PhD

RE: Current Status of Mia Kaminski's Health Condition

To Whom It May Concern:

Mrs. Kaminski gave us permission to release the following about her private health issues: Mrs. Kaminski was diagnosed with two brain tumors in April 2010. My team of surgeons removed tumor #1, the pituitary tumor, on June 11, 2010. It is suggested that Mrs. Kaminski take off for 6-8 weeks to recover from surgery. The second tumor currently appears to be some sort of vagal paraganglioma. This is a rare tumor which was biopsied last week. We are currently waiting on the pathology reports to determine what to do with that large tumor. These tumors are slow growing tumors and it our estimate that they have been growing for several years. The vagal paraganglioma may cause extreme irritability and other problems since the tumor is on the vagal nerve. Until all two tumors are properly treated and/or removed and Mrs. Kaminski is recovered, for the safety of Mrs. Kaminski health, she should not be involved with any stressful situations. Mrs. Kaminski's health is at risk and this should not be treated lightly. At this time we request that she not be involved in any stressful situations including but not limited to depositions, court appearances or other sorts of proceedings. We ask that she not be involved in such activities for five to six months at an absolute minimum. If you should have any questions, please contact my office at 415-353-2948.

Thank You,

Gwen Stanhope MS, PA-C

Office of Manish K. Aghi MD, PhD

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